

Chris Netram

Vice President,
Tax and Domestic Economic Policy

March 16, 2020

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: File No. S7-25-19: *Amending the “Accredited Investor” Definition*

Dear Ms. Countryman:

The National Association of Manufacturers appreciates the opportunity to provide comments to the Securities and Exchange Commission on File No. S7-25-19, the SEC’s proposed rule to amend the “accredited investor” definition.

The NAM is the largest manufacturing trade association in the United States, representing small and large manufacturers in every industrial sector. For smaller manufacturers, capital formation is a key business challenge – manufacturing is a capital-intensive industry, requiring significant investments for equipment purchases and research and development. Access to capital throughout a company’s life cycle allows it to invest in new product lines, expand production capabilities, grow operations, conduct R&D, and hire more workers. The NAM applauds the SEC’s efforts to ensure that growing companies have access to investors that can support manufacturing in America.

The NAM supports the SEC’s proposed rule to more effectively identify investors that have the knowledge and expertise to invest in manufacturing businesses. We respectfully urge the Commission to finalize the proposed rule’s expansion of the accredited investor definition to include individuals with certain professional certifications, designations, and credentials. As the SEC works to finalize the proposed rule, we would also encourage it to leave unchanged the financial metrics in the existing accredited investor definition so as not to limit the pool of investors available to small manufacturers.

Impact of Accredited Investors on U.S. Manufacturing

Manufacturers in every part of the country need capital for the operational challenges they face, and strong access to capital for growing manufacturers means job creation and economic expansion in all 50 states. As they grow, these small businesses utilize the SEC’s exemptions from registration to conduct private offerings – often raising capital from members of the communities in which they operate. Participation in offerings conducted under a registration exemption is usually restricted to accredited investors, meaning that the qualifications set by the SEC have a real-world impact on manufacturing businesses’ ability to raise capital.

As such, the NAM supports an accredited investor definition that accurately encompasses the qualifications necessary to invest in private placement opportunities throughout the United States and allows for a broad pool of potential investors when companies seek financing.

Adding Categories of Natural Persons Who Qualify as Accredited Investors

Under the SEC's existing rules, individuals qualify as an accredited investor if they have annual income over \$200,000 (or \$300,000 together with their spouse¹) or a net worth over \$1 million (alone or with their spouse). These metrics were designed by the SEC to ensure that investors participating in private offerings have the financial wherewithal to withstand a potential loss. The limitations are premised on the idea that private placements offer less in the way of investor protection and disclosure than do public offerings, so investor limitations are appropriate to protect against downside risk.

The proposing release acknowledges that another way to protect against the potential risk of reduced information availability in private offerings is to allow informed and expert individuals to participate, irrespective of their wealth. The proposed rule, if finalized, would allow individuals to qualify as accredited investors if they hold certain credentials, pursuant to Commission order. The proposing release expects that such a Commission order would, at the outset, encompass individuals with a Series 7, Series 65, or Series 82 certification. These qualifications would enable investors that may not meet the financial thresholds in the accredited investor definition to nonetheless invest in private offerings due to their financial or investing expertise.

The NAM supports expanding the accredited investor definition to include these qualified individuals.² As proposed, the expanded accredited investor definition balances the risk of investing in a private offering by instituting appropriate guardrails around either an investor's ability to withstand a loss (by maintaining the existing financial thresholds) or her ability to understand the risk of a loss (by adding the new credentials qualification). In so doing, the proposed rule would expand the pool of accredited investors and increase capital formation opportunities for American manufacturers.

Financial Thresholds in the Accredited Investor Definition

The SEC should first and foremost take a "do no harm" approach when it comes to the financial thresholds in the accredited investor definition. The proposing release solicits comment on whether the SEC should maintain the current financial thresholds in the definition, or instead make an adjustment that would significantly raise one or both of the income and net worth tests. The NAM strongly believes that the SEC should not make such an adjustment.

Shrinking the pool of accredited investors would reduce investment opportunities for hard-working Americans and increase the cost of capital for growing manufacturers. Increasing the income or net worth tests would reclassify many manufacturing investors as non-accredited, disrupting the businesses that already rely on their investment capital and reducing capital formation opportunities for manufacturers on a going forward basis. The NAM respectfully urges the SEC to maintain the existing financial thresholds in the accredited investor definition.

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¹ The proposed rule would also allow "spousal equivalents" to similarly pool their finances for the purpose of qualifying as accredited investors. The NAM agrees that there is no policy justification for distinguishing between different types of relationship structures, and we support the proposed rule's reforms to allow legally recognized spousal equivalents (including individuals in domestic partnerships and civil unions) to combine their income and/or net worth to qualify as accredited investors.

² We would also encourage the SEC to continue revisiting the list of acceptable qualifications in order to ascertain if other individuals should qualify as accredited investors in the future.

The NAM applauds the SEC for proposing a rule to increase capital formation opportunities for small manufacturers across the country by expanding the universe of accredited investors. Manufacturers support the proposed rule, and we encourage the Commission to take steps to finalize the new accredited investor definition without unnecessarily increasing the financial thresholds in the definition.

On behalf of the NAM and the 13 million men and women who make things in America, thank you for your attention to these concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Netram". The signature is fluid and cursive, with a prominent loop at the end.

Chris Netram
Vice President, Tax & Domestic Economic Policy